

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILMINGTON TRUST COMPANY, et al.,

Plaintiffs,

v.

THE BOEING COMPANY, et al.,

Defendants.

CASE NO. C20-0402-RSM-MAT

ORDER ADOPTING REPORT AND
RECOMMENDATION AND DENYING
MOTION TO REMAND

This matter is before the Court on Plaintiffs' objections (Dkt. #36) to the Report and Recommendation ("R&R") of United States Magistrate Judge Mary Alice Theiler (Dkt. #28). Judge Theiler's R&R recommended that this Court deny Plaintiffs' motion for remand to state court. Dkt. #28. Defendant, The Boeing Company ("Boeing"), responds to Plaintiffs' objections, arguing in support of the R&R and its removal of this action. Dkt. #37. The Court, being fully informed and having considered the matter, adopts the R&R in full.

A motion to remand to state court is dispositive. *Flam v. Flam*, 788 F.3d 1043, 1047 (9th Cir. 2015). Plaintiffs' objections to the R&R means that the Court "must determine de novo any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

1 Having reviewed Plaintiffs' objections and the appropriate portions of the R&R de novo,
2 the Court concludes that the objections merely rehash arguments Judge Theiler already addressed
3 in the R&R. The Court wholly agrees with the facts, law, analysis, and conclusions as set forth in
4 the R&R. To avoid duplication of the R&R the Court provides only a brief discussion.

5 Plaintiffs argue that the R&R conflicts with this Court's prior precedent. Dkt. #36 at 9
6 (citing *Safeco Insurance Co. of America v. UnitedHealth Grp. Inc.*, Case No. 13-cv-732-RSM,
7 2013 WL 3814387, at *3 (W.D. Wash. July 22, 2013)). But the R&R correctly considered *Safeco*
8 *Ins. Co. of Am.* at length and discussed the distinguishing features of the two cases throughout.¹
9 Dkt. #28 at 7–8, 11–12, 14. Plaintiffs also argue that the R&R incorrectly applied factual and legal
10 presumptions. Essentially, Plaintiffs argue that upon a plaintiff's conclusory motion to remand
11 the removing defendant must prove all jurisdictional facts beyond "any doubt" to defeat remand.
12 Dkt. #36 at 12–13. But the R&R correctly placed the burden on Boeing to establish that its nerve
13 center is not located in Washington in accordance with the appropriate legal framework and the
14 Supreme Court's guidance that the jurisdictional determination should "remain as simple as
15 possible." *Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010).

16 Accordingly, and having reviewed Plaintiffs' Motion to Remand (Dkt. #17), the Report
17 and Recommendation of Mary Alice Theiler, United States Magistrate Judge (Dkt. #28), Plaintiffs'
18 Objections (Dkt. #36), Defendant's Response (Dkt. #37), and the remaining record, the Court does
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20 ¹ Most notably, the business entities considered in the two cases were of different legal status. In
21 *Safeco Ins. Co. of Am.*, the Court considered the nerve center of a separately incorporated
22 subsidiary. *Safeco Ins. Co. of Am.*, 2013 WL 3814387, at *1. Here, Plaintiffs focus on the activity
23 of Boeing Commercial Airplanes—one of at least three unincorporated business units/divisions
within Boeing. Dkt. #22 at ¶ 4. "Pursuant to Ninth Circuit law, an unincorporated division of a
corporation 'is not an independent entity for jurisdictional purposes.' Dkt. #28 at 14 (citing
Breitman v. May Co. Cal., 37 F.3d 562, 564 (9th Cir. 1994) (citation and quotation marks
omitted)).

1 hereby find and ORDER:

2 (1) The Report and Recommendation (Dkt. #28) is ADOPTED;

3 (2) Plaintiffs' Motion to Remand to State Court (Dkt. #17) is DENIED; and

4 (3) The Clerk is directed to send copies of this Order to the parties and to the Honorable
5 Mary Alice Theiler.

6 DATED this 15th day of July, 2020.

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9 RICARDO S. MARTINEZ
10 CHIEF UNITED STATES DISTRICT JUDGE
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